



MEMO ENDORSED

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LAW DEPARTMENT**

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October 14, 2022

By ECF

Hon. Katherine Polk Failla
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

Re: *Ronisha Ferguson v. City of New York, et al.*, 22-cv-01000 (KPF)(VF)

Dear Judge Failla:

I am the Assistant Corporation Counsel in the Office of the Corporation Counsel, assigned to represent Defendants in the above-referenced action. I write jointly with Plaintiffs' counsel to respectfully request that the parties proceed with discovery pursuant to a joint Case Management Plan and Scheduling Order rather than the Section 1983 Plan, or in the alternative that the case be exempt from the Plan pursuant to Local Civil Rule 83.10(d)(1)(ii). Your Honor had directed the parties to comply with Local Civil Rule 83.10(d)-(e) in the October 12, 2022 Order (ECF No. 39). As discussed below, we believe the circumstances of this child removal case are distinct from the type of police cases that fall within the purview of this Rule.

In this Section 1983 action, Plaintiff Ferguson alleges she was subject to an unreasonable search and her children were wrongfully removed by employees of the Administration for Children's Services ("ACS"). While several NYPD officers were present on the scene, the emergency removal of the children was authorized by ACS, and the officers had no further involvement in the matter. Indeed, Plaintiffs do not allege "use of excessive force, false arrest or malicious prosecution by employees of the NYPD..." as is contemplated by the Rule. Accordingly, the bulk of discovery will be directed to the ACS defendants, not the NYPD. Moreover, as discussed in my October 11, 2022 letter (ECF No. 38), at this moment, my Office does not represent most of the NYPD defendants, as these defendants were recently added.

Accordingly the parties jointly request to proceed with discovery by agreeing on a joint Case Management Plan and Scheduling Order, rather than proceeding with discovery pursuant to the Local Civil Rule 83.10(d)-(e).

Thank you for consideration of this request.

Respectfully submitted,

s/
Sharon Sprayregen

cc. by ECF
Plaintiffs' counsel

Application GRANTED. The parties are hereby ORDERED to appear for an initial pretrial conference in this matter on **November 16, 2022**, at 10:30 a.m. The conference will be held telephonically. At the scheduled time, the parties are to call (888) 363-4749 and enter access code 5123533.

The parties shall submit a joint letter and Proposed Civil Case Management Plan and Scheduling Order on or before the Thursday of the week prior to the initial pretrial conference in accordance with the Court's Individual Rules of Practice in Civil Cases.

The Clerk of Court is directed to terminate the motion at docket entry #40.

Dated: October 17, 2022
New York, New York

SO ORDERED.

A handwritten signature in blue ink, reading "Katherine Polk Failla".

HON. KATHERINE POLK FAILLA
UNITED STATES DISTRICT JUDGE